

DES-WMB Policy Number: 011		Date Printed: 3/24/2005
Program:	Water Quality Standards	Last Revised: 7/9/2004
Subject:	Interpretation of statutory definitions of waste as applied to “no discharge” provisions of the water quality standards	Page: 1 of 2

POLICY SUBJECT

Interpretation of statutory definitions of waste as applied to “no discharge” provisions of the water quality standards

BACKGROUND AND SUMMARY

RSA 485-A:8,I prohibits discharge of any sewage or wastes into Class A waters. Proposed Env-Ws 1703.14 (d) and (e) rule changes for phosphorus criteria would prohibit new or increased discharges of sewage or waste containing phosphorus to lakes and ponds or their tributaries., It is clear that this applies to point sources of sewage or industrial wastes but not so to nonpoint sources or water transfers.

In order to apply this regulatory language to nonpoint source discharges including stormwater runoff and groundwater seepage and to water transfers it is necessary to interpret the statutory definitions of “waste” and determine if the definitions include nonpoint sources and water transfers. It is DES’ opinion that they do not.

APPLICABLE LAWS / REGULATIONS

RSA 485-A:8,I: “I. Class A waters shall be of the highest quality.... There shall be no discharge of any sewage or wastes into waters of this classification. ...”

Env-Ws 1703.14 Nutrients.

(d) There shall be no new or increased ***point source*** discharge ***of treated or untreated industrial waste or sewage containing*** phosphorus ~~into~~ lakes or ponds ***or to tributaries of lakes or ponds.***

(e) There shall be no new or increased ***point or nonpoint source*** discharge(s) of ***sewage or waste*** containing phosphorus or nitrogen to ***lakes or ponds or to*** tributaries of lakes or ponds that would contribute to cultural eutrophication or growth of weeds or algae in such lakes and ponds.

RSA 485-A:2,VI. "Industrial waste' means any liquid, gaseous or solid waste substance resulting from any process of industry, manufacturing trade or business or from development of any natural resources.

RSA 485-A:2,VIII. "Other wastes' means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, ashes, offal, oil, tar, chemicals and other substances other than

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sewage or industrial wastes, and any other substance harmful to human, animal, fish or aquatic life.

X, "Sewage" means the water-carried waste products from buildings, public or private, together with such groundwater infiltration and surface water as may be present..

RSA 485-A:2, XVI. "Waste" means industrial waste and other wastes.

DISCUSSION

DES interprets that these prohibitions are intended to prevent the direct discharge of wastes, and not the discharge of any runoff, groundwater, or surface water that may contain some constituents derived from wastes. Therefore nonpoint source discharges and water transfers are not included in these prohibitions, as they are not direct discharges of wastes.

POLICY

Nonpoint source discharges, including both stormwater and groundwater, are not discharges of sewage or waste, and are therefore allowed in watersheds of Class A waterbodies.

Point source discharges containing only stormwater are not discharges of sewage or waste, and are therefore allowed in watersheds of Class A waterbodies.

Transfers of water are not discharges of sewage or waste, and are therefore allowed into Class A waterbodies.

Transfers of water containing phosphorus, which include all water transfers, are not discharges of sewage or waste and are therefore allowed into lakes and ponds or tributaries of lakes and ponds.

The above policy statements do not in any way remove or lessen other provisions of the water quality standards, including the “none unless naturally occurring” provisions for certain constituents in Class A waters, and the antidegradation provisions.

Approved: _____
Paul M. Currier, Administrator

Date: _____